

1 CHRISTOPHER A. NEDEAU (CA SBN 81297)
2 CARL L. BLUMENSTEIN (CA SBN 124158)
3 NOSSAMAN LLP
4 50 California Street, 34th Floor
5 San Francisco, CA 94111
6 Telephone: (415) 398-3600
7 Facsimile: (415) 398-2438
8 cnedea@nossaman.com
cblumenstein@nossaman.com

Attorneys for Defendants
AU Optronics Corporation and
AU Optronics Corporation America

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

IN RE: TFT-LCD (FLAT PANEL)
ANTITRUST LITIGATION

CASE NO. 3:07-md-1827 SI
MDL No. 1827

THIS DOCUMENT RELATES TO:

14 *AT&T Mobility LLC et al v. AU Optronics
Corporation, et al.*, Case No. 09-cv-4997

15 *Best Buy Co., Inc., et al. v. AU Optronics
Corporation, et al.*, Case No. 10-cv-4572

17 *Costco Wholesale Corporation v. AU Optronics
Corporation, et al.*, Case No. 11-cv-0058

19 *Dell Inc. et al. v. Sharp Corporation, et al.*,
Case No. 10-cv-1064

21 *Eastman Kodak Company v. Epson Imaging
Devices Corporation, et al.*, Case No. 10-cv-5452

22 *Electrograph Systems, Inc., et al. v. Epson Imaging
Devices Corp., et al.*, Case No. 10-cv-0117

24 *Motorola, Inc. v. AU Optronics Corporation, et al.*,
Case No. 09-cv-5840

25 *Target Corp. et al. v. AU Optronics Corporation,
et al.*, Case No. 10-cv-4945

27 *TracFone Wireless, Inc. v. AU Optronics
Corporation, et al.*, Case No. 10-cv-3205

**STIPULATION AND ORDER TO
MODIFY NOVEMBER 13, 2009 ORDER
RE DEPONENTS ASSERTING THE
FIFTH AMENDMENT PRIVILEGE
AGAINST SELF-INCRIMINATION**

1 WHEREAS the Court previously entered its November 13, 2009 Order re Deponents Asserting
2 the Fifth Amendment Privilege Against Self-Incrimination as Docket No. 1381 (hereafter
3 “November 13, 2009 Order”);

4 WHEREAS plaintiffs have taken civil depositions of six present and former employees and
5 officers of AUO or AUOA in which each of those individuals asserted his or her right not to testify
6 under the Fifth Amendment of the United States Constitution;

7 WHEREAS a superseding indictment was returned on June 10, 2010 against AU Optronics
8 Corporation (“AUO”) and AU Optronics Corporation America (“AUOA”), among others, in Case
9 No. CR-09-0110-SI (“the Criminal Case”);

10 WHEREAS the Court has scheduled a trial date of January 9, 2012 in the Criminal Case and has
11 scheduled a trial date of November 5, 2012 for certain Direct Action and Attorney General cases in the
12 above-captioned MDL proceeding and has scheduled other pretrial deadlines in those proceedings;

13 WHEREAS, upon stipulation of the class plaintiffs and the AUO defendants, the Court on
14 December 8, 2010 entered an Order to Modify November 13, 2009 Order re Deponents Asserting the
15 Fifth Amendment Privilege Against Self-Incrimination which was docketed as Docket No. 2192;

16 WHEREAS, the Direct Action Plaintiffs and defendants AUO and AUOA seek to provide for the
17 orderly completion of deposition discovery in the above-captioned proceedings and also to coordinate
18 between the parallel civil and criminal proceedings;

19 IT IS HEREBY STIPULATED AND AGREED by the Direct Action Plaintiffs and defendants
20 AUO and AUOA, by and through their undersigned liaison counsel and counsel and subject to the
21 concurrence of the Court, that the November 13, 2009 Order is hereby modified as follows:

22 1. Any present officer or employee of AUO or AUOA, or any former officer or employee of
23 AUO or AUOA who remains represented by the below-signed counsel for AUO and AUOA, who at
24 deposition asserts or has asserted his or her right under the Fifth Amendment of the United States
25 Constitution not to testify will be bound by that assertion of the privilege in the trial of the above-
26 captioned cases and shall not be permitted to testify at trial unless, not later than December 9, 2011 (or
27 in the event that the trial date in the Criminal Case is continued and provided that the Criminal Case is
28 still to be tried before the above-captioned cases, 30 days before such continued trial date), notice is

1 provided in writing that the below-signed counsel for AUO and AUOA have a good faith belief that
2 such witness intends to waive his or her Fifth Amendment right. Upon giving such notice, any revoking
3 deponent shall make himself or herself available for deposition in the above-captioned proceedings at
4 his or her expense in San Francisco, California, such deposition to be scheduled for a mutually agreeable
5 date and not later than 90 days after entry of judgment in the Criminal Case. These depositions shall be
6 permitted to occur on this schedule notwithstanding the fact discovery cut-off in the above-captioned
7 cases. If notice is given and the witness does not waive his or her Fifth Amendment right or fails to
8 appear for deposition, the witness will be bound by the assertion of the Fifth Amendment right in the
9 above-captioned cases. A revocation within the terms of this order does not guarantee the witness's
10 right to submit an affidavit or to testify at trial, if plaintiffs make a sufficient showing of prejudice or if
11 the initial invocation represented an attempt to abuse, manipulate, or gain an unfair advantage in the
12 civil proceeding.

13 2. Nothing in this order in any way impairs or forecloses any party's right to seek relief
14 otherwise permitted by law, including but not limited to further modification of this order from the
15 Court or plaintiffs' request for an adverse inference instruction based on a deponent's assertion of his or
16 her Fifth Amendment right against self-incrimination.

17 3. This Stipulation and Order shall not modify the November 13, 2009 order with respect to
18 any deponents who are not either (i) present employees of AUO or AUOA or (ii) former employees who
19 have continued to be represented in this action by the below-signed counsel for AUO and AUOA.

20 | DATED: November 16, 2011 NOSSAMAN LLP

By: /s/ Carl L. Blumenstein
Carl L. Blumenstein
Attorneys for Defendants
AU Optronics Corporation and
AU Optronics Corporation America

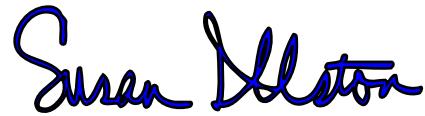
CROWELL & MORING LLP

By: */s/ Jerome Murphy*
Jerome Murphy
Liaison Counsel for Direct Action Plaintiffs

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2 Attestation: Pursuant to General Order 45, Part X-B, the filer attests that concurrence in the
3 filing of this document has been obtained from each of the signatories.
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5 **IT IS SO ORDERED.**

6 Dated: _____ 11/17/11
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10 The Honorable Susan Illston
11 United States District Judge
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